



ADMINISTRATION FOR
CHILDREN & FAMILIES



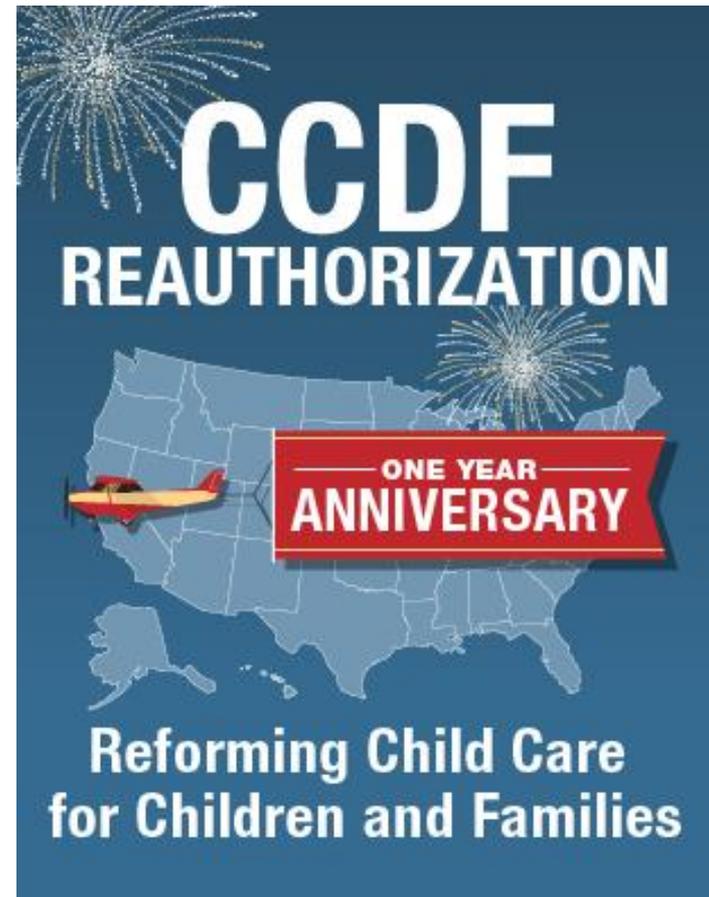
Child Care and Development Fund Notice of Proposed Rulemaking (NPRM)

Overview
December 2015



Introduction

- Last year Congress passed the Child Care and Development Block Grant (CCDBG) Act of 2014 (P.L. 113-186) on a bipartisan basis. President Obama signed it into law November 19, 2014.
- The reauthorization was an historic re-envisioning of the Child Care and Development Fund (CCDF) program.
- This high-level overview of the NPRM does not include all details. For full text see the Federal Register at <http://federalregister.gov/a/2015-31883>.



What is a Notice of Proposed Rulemaking (NPRM)?

- Public notice of proposed federal regulations to address the law.
- Public comment period – 60 days from Federal Register publishing date.
- ACF will review public comments and issue final regulations.
- Projected final issuance Summer 2016.

Development of Proposed Rule

- Established reauthorization web page to provide information on law
- Received approximately 650 questions and comments through email address, webinars, meetings, etc.
- Participated in more than 21 listening sessions with approximately 675 people
- Held five meetings with State and Territory CCDF administrators and a series of consultations with Tribal Leaders
- Reviewed public comments from 2013 NPRM

Revised Purposes of CCDF

The law enhanced the statutory purposes of the CCDF program to better balance the dual purposes of promoting children's healthy development and school success and to support parents who are working or in training or education. The revised purposes are (*Text added by Congress in bold*):

- To allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within that State;
- To promote parental choice to empower working parents to make their own decisions regarding the child care services that best suits their family's needs;
- To encourage States to provide consumer education information to help parents make informed choices about child care services **and to promote involvement by parents and family members in the development of their children in child care settings;**

Revised Purposes of CCDF (cont.)

- To assist States in **delivering high-quality, coordinated early childhood care and education services to maximize parents' options** and support parents trying to achieve independence from public assistance;
- To assist States in **improving the overall quality of child care services and programs** by implementing the health, safety, licensing, **training, and oversight** standards established in this subchapter and in State law (including State regulations);
- **To improve child care and development of participating children;** and
- **To increase the number and percentage of low-income children in high-quality child care settings.**

Overview of the CCDF NPRM

This overview address four focus areas:

- Protect the health and safety of children in child care.
- Help parents make informed consumer choices and access information to support child development.
- Provide equal access to stable, high quality child care for low-income children.
- Enhance the quality of child care and the early childhood workforce.

Protect the Health and Safety of Children in Child Care



Health & Safety Training and Standards

- States/Territories/Tribes must put in place training and health and safety requirements related to specified topics (first aid and CPR, SIDS prevention, etc.) for CCDF providers. The NPRM:
 - Adds “recognition and reporting of child abuse and neglect” and “child development” to the list of required training.
 - Defines pre-service or orientation as within three months of starting.
 - Includes all caregivers, teachers, and directors.
 - Names Caring for Our Children Basics as a baseline for standards.
- Under the law, relative providers may be excluded from health and safety requirements (consistent with current regulations).

Monitoring

- Monitoring requirements must be in place for licensed (pre-licensure and annual unannounced inspections) and licensed-exempt (annual inspection) CCDF providers by November 2016. The NPRM:
 - Specifies that monitoring must cover the specified health & safety topics.
 - Allows use of differential monitoring or a risk-based approach for annual inspections, provided that the content covered by each visit is representative of the full complement of health & safety requirements.
 - Encourages coordination with other monitoring entities (e.g., licensing, QRIS, Head Start, CACFP) to meet monitoring requirements.
 - Allows the option of developing alternative monitoring requirements for care in the child's home.
- Requires child care providers to report to a designated State, Territorial, or Tribal entity any serious injuries or deaths of children occurring in child care.

Criminal Background Checks

- Child care staff members (including prospective child care staff members) of all licensed/regulated/registered child care providers and all child care providers eligible to deliver CCDF-funded services must complete comprehensive background checks by September 30, 2017. The NPRM:
 - Defines the overlapping background check components in the law.
 - Requires background checks for child care staff, and for individuals age 18 or older residing in a family child care home.
 - Allows prospective staff members to provide services to children on a provisional basis (if supervised at all times) while the background checks are being processed.
 - Requires States to have policies and procedures to respond in a timely manner to requests from other States, Territories, and Tribes for background check results.

Helping Parents Make Informed Consumer Choices and Access Information to Support Child Development



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Consumer Education Website

- Requires States to create a consumer-friendly and easily accessible website that ensures the widest possible access to services for families who speak languages other than English and persons with disabilities, including:
 - State child care policies and procedures related to child care;
 - Provider-specific monitoring reports, level of quality (if available), and number of serious injuries and deaths that occurred at that provider for all licensed and CCDF eligible providers;
 - Aggregate data on the annual number of serious injuries, deaths, and substantiated instances of child abuse and neglect at all child care settings serving CCDF children;
 - Referral to local child care resource and referral organizations; and,
 - Directions for parents on who to contact to better understand the information on the website.
- Requires posting full monitoring reports/results for all licensed and CCDF eligible providers in plain language, or with a plain language summary. Requires posting five years of results going forward. Recommends and asks for comment about posting within 90 days.
- Aligns Federal and State websites by including all components of the National website (authorized by the Act) in the State website.

Information for Parents and Providers to Support Child Development

- Resources about developmental screenings as part of the CCDF intake process, and to providers through training and education. Recommends, but does not require, all children receive a developmental screening within 45 days of enrollment.
- Information about States' policies regarding social-emotional health of children, including policies on suspension and expulsion for children birth to age 5.
- Research and best practices concerning children's development and meaningful parent and family engagement.

Consumer Education (cont.)

- Requires a provider-specific consumer education statement be provided to CCDF parents. Must also include information on State health and safety policies and procedures.
- Materials should use plain language and consider the abilities, languages, and literacy levels of the audience. Encourages translation of materials into multiple languages, and inform persons with disabilities how they can access aids or services and receive the information in an alternative format.
- Allows the State to define “major substantiated complaint,” “serious injury,” and “substantiated instance of child abuse or neglect.”

Providing Equal Access to Stable, High Quality Child Care for Low-Income Children



Promoting Continuity of Care

(i) Minimum Period.-

(I) 12- Month Period.- The plan shall demonstrate that each child who receives assistance under this subchapter in the State will be considered to meet all eligibility requirements for such assistance and will receive such assistance, for not less than 12 months before the State or designated local entity redetermines the eligibility of the child under this subchapter, regardless of a temporary change in the ongoing states of the child's parent as working or attending a job training or educational program or a change in family income for the child's family, if that family income does not exceed 85 percent of the State median income for a family of the same size...

CCDBG Act of 2014 (P.L. 113-186) Section 658E(c)(2)(N)(i)(I)

Promoting Continuity of Care

(iii) Period before Termination.- At the option of the State, the plan shall demonstrate that the State will not terminate assistance provided to carry out this subchapter on a factor consisting of a parent's loss of work or cessation of attendance at a job training or educational program for which the family was receiving the assistance, without continuing the assistance for a reasonable period of time, of not less than 3 months, after such loss or cessation in order for the parent to engage in a job search and resume work, or resume attendance at a job training or educational program, as soon as possible.

CCDBG Act of 2014 (P.L. 113-186) Section 658E(c)(2)(N)(iii)

Ensuring Minimum 12-Month Eligibility for Child Care Assistance

The NPRM:

- Clarifies that minimum 12-month eligibility applies to initial and subsequent eligibility periods.
- Defines “temporary” to include at a minimum: specific time-limited absences from work or school (such as seasonal work or a school break), any reduction in work, training or education hours, and other changes to work, education, job training status that do not exceed three months.
- Prohibits shorter authorization periods within the minimum 12 month eligibility period.
- Clarifies that any additional Lead Agency eligibility criteria apply only at the time of initial determination or redetermination.

Continuity During Eligibility Periods

- Requires families to notify CCDF Lead Agency if their income exceeds federal threshold of 85% SMI or, at Lead Agency option, they experience a non-temporary change in work, job training, or education status.
- Limits any requirements for reporting changes to items that impact a child's eligibility or a Lead Agency's ability to communicate with parents or providers.
- Requires Lead Agencies to allow families the option to report changes at any time and make any changes that would be beneficial to their amount of child care assistance or copayment level.

Providing a Graduated Phaseout

- The law establishes a Graduated Phaseout for families who, at redetermination, exceed the initial CCDF Lead Agency income threshold.
- The NPRM specifies that CCDF Lead Agencies that establish income eligibility below 85% of State Median Income (SMI) must establish two-tiered eligibility and set their second tier at 85% SMI.
- CCDF Lead Agencies have the option to:
 1. Allow a child to retain eligibility until the family exceeds 85% SMI, or
 2. Extend assistance for a limited period of time of at least a year.

Enhancing Provider Payment Rates

- Requires States to set provider payment rates based on a valid market rate survey or an alternative methodology and to take into consideration the cost of providing higher quality care.
- Requires States to use current survey/methodology and update rates at least every 3 years.
- Requires States to establish base payment rates that support the health, safety, and quality standards.
- Requires States to set rates that provide parental choice for CCDF families to access care of comparable quality to care available to families with income above 85% of SMI.
- Prohibits charging parents fees above the family co-payment and sets a new benchmark of 7% of a family's income in the preamble.
- Sets limits on when co-pays can be adjusted.

Improving Payment Practices and Provider Stability

- Requires that payment practices for CCDF providers reflect generally accepted payment practices, including paying on a part-time or full-time basis rather than smaller increments of time and paying for mandatory fees (such as registration fees) that providers charge private-paying parents (unless Lead Agency can provide evidence that such practices are not generally accepted).
- Requires, to the extent practicable, enrollment and eligibility policies that delink provider payments from a child's occasional absences by paying based on enrollment, full payment if a child attends 85% of the time or misses five or fewer days in a month, or an alternative approach.
- Requires timely payments for child care services (prospective payment or within 21 days of receiving invoice for services).

Building Supply

- Requires strategies for increasing supply and quality of services for children in underserved areas, infants and toddlers, children with disabilities, and nontraditional hours.
- Requires the use of some grants or contracts for direct services.
- Requires increased access to high-quality programs in areas with significant concentrations of poverty and unemployment.

Enhancing the Quality of Child Care and the Early Childhood Workforce



Focus on Quality Improvement

- Gradually increases, over a 5 year period, the mandatory quality set-aside from the current level of 4 percent annually to 9 percent by FY 2020.
- Adds a new 3 percent infant-toddler set-aside starting FY 2017.
- Requires States to submit annually:
 - The amount of funds reserved for quality activities,
 - The quality activities carried out; and
 - The measures the State will use to evaluate progress in improving the quality of child care programs and services.

Quality Set-Aside Phase in

Federal Fiscal Year	% Quality Set-aside	% Infant and Toddler	Total Quality Set-aside
FFY 2016	7%	--	7%
FFY 2017	7%	3%	10%
FFY 2018	8%	3%	11%
FFY 2019	8%	3%	11%
FFY 2020 (and ongoing)	9%	3%	12%

Training and Professional Development

- Requires a State framework for professional development and a progression of professional development.
- Requires caregivers, teachers, and directors working for CCDF providers to receive pre-service/orientation and ongoing training, to include health & safety topics and child development.
- Requires that, to the extent practicable, training and professional development yield Continuing Education Units (CEUs) or college credits.

Tribes

The CCDBG Act applies many provisions to States and Territories, but not explicitly to Tribes. This rule proposes how the requirements should apply to Tribes.

The NPRM establishes three tiers of tribal grantees based on the size of their allocation, with reduced requirements for medium and especially smaller Tribes.

- Tribes with Large Allocations: over \$1 million (18 Tribes)
- Tribes with Medium Allocations: \$250,000 to \$1 million (79 Tribes)
- Tribes with Small Allocations: under \$250,000 (162 Tribes)

Temporary Waivers/Extensions

On a limited basis, HHS may approve two types of waivers/extensions for provisions or penalties in the law:

1. Transitional/legislative extensions to provide transitional relief from conflicting or duplicative requirements preventing implementation or an extended period of time in order for a State legislature to enact legislation; or
2. Temporary waivers for extraordinary circumstances, such as a natural disaster or financial crisis.

Waivers provide temporary time-limited extensions.

State/Territory CCDF Plan Pre-Print

- CCDF State/Territory Plan Submission deadline is March 1, 2016.
 - E-Submission site will be updated to reflect the final version and you will receive an email when the site is live.
- Plans may reflect the State's reasonable interpretation of the law.
- Once a final rule is issued, States will need to comply with provisions of the rule.

State/Territory Implementation Plans

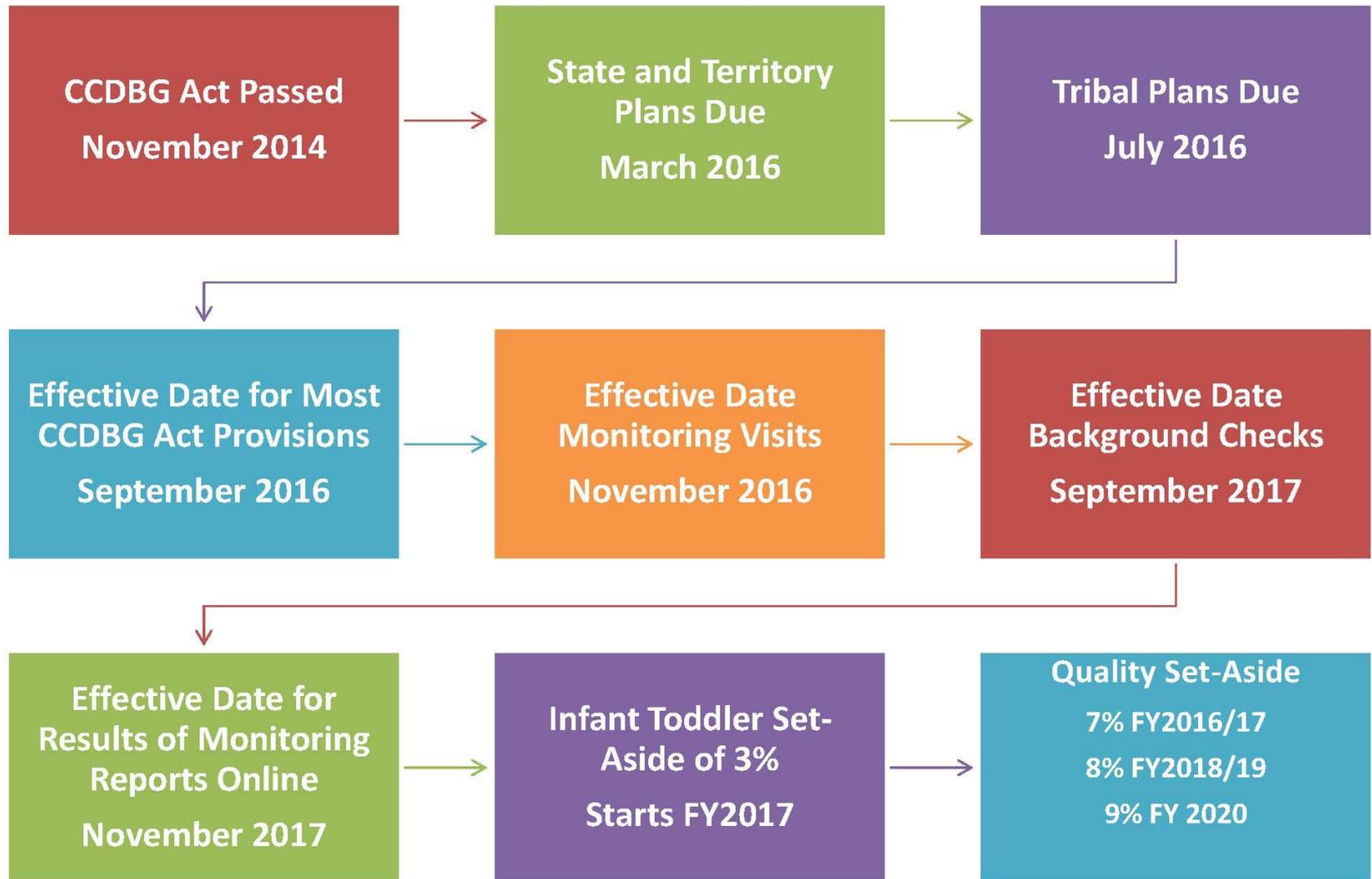
- For any new requirement not fully implemented by March 1, 2016, an Implementation Plan will be required. These are included in questions linked to each new requirement.
- Once requirements have been met, a Plan amendment is required.
- Implementation Plans should reflect any intent to request a waiver/extension.

Dates

The CCDBG Act of 2014 specifies particular dates when certain provisions are effective. Where the law does not specify a date, the new requirements became effective upon the date of enactment and States/Territories have until September 30, 2016 to implement the new statutory requirement(s).

(Key statutorily required implementation dates can be found in Program Instruction [CCDF-ACF-PI-2015-02](#), dated January 9, 2015).

Implementation Timeline for the New Law



Dates for States/Territories

	CCDF State & Territory Plan (3-yr) FY 2016-2018				CCDF State & Territory Plan (3-yr) FY 2019-2021		
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
New CCDF Program Requirements	10/01/14 – 9/30/15	10/01/15 – 9/30/16	10/01/16 – 9/30/17	10/01/17 – 9/30/18	10/01/18 – 9/30/19	10/01/19 – 9/30/20	10/01/20 – 9/30/21
Criminal Background Checks	<i>Planning/Implementation</i>			Compliance by 9/30/2017			
Monitoring of Licensing and Regulatory Requirements	<i>Planning/Implementation</i>			Compliance by 11/19/2016			
Posting Results of Monitoring and Inspection Reports (Website)	<i>Planning/Implementation</i>			Compliance by earlier of 11/19/2017 or 1 year after monitoring in place.			
State compliance with Priority for Services	<i>Planning/Implementation</i>			Compliance by 9/30/2016			

Comment Process

- You may submit comments, identified by Docket Number ACF-2015-0011 and/or RIN number 0970-AC67, by either of the following methods:
 - Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
 - Mail: Submit comments to the Office of Child Care, Administration for Children and Families, 330 C Street SW, Washington, DC 20201, Attention: Office of Child Care Policy Division.

Comment Process

- All submissions received must include the agency name and docket number or RIN number for this rulemaking.
- To ensure we can effectively respond to your comment(s), clearly identify the issue(s) on which you are commenting. Provide:
 - the page number;
 - identify the column; and
 - cite the relevant paragraph/section from the Federal Register document, (e.g., On page 10999, second column, § 98.20(a)(1)(i).).

Comment Process

- All comments received are a part of the public record and will be posted for public viewing on www.regulations.gov, without change. That means all personal identifying information (such as name or address) will be publicly accessible. Please do not submit confidential information, or otherwise sensitive or protected information.
- We accept anonymous comments. If you wish to remain anonymous, enter “N/A” in the required fields.

Thank you for your continued work!

For more information:

- Topic-specific Webinars in January
- Child Care Technical Assistance Resources
 - <https://childcareta.acf.hhs.gov/ccdf-reauthorization>
- OCC Reauthorization Policy Resources
 - <http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization>

